

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARNOLD H. THOMAS,

Plaintiff,

-v.-

JPMORGAN CHASE BANK N.A.,

Defendant.

21 Civ. 8477 (JHR) (SLC)

ORDER ADOPTING REPORT
AND RECOMMENDATION

JENNIFER H. REARDEN, District Judge:

Plaintiff Arnold H. Thomas, acting *pro se*, brings this action against Defendant JPMorgan Chase Bank N.A. (“Chase”) for “[f]ail[ing] to disclose material fact[s]” related to the issuance of a credit card. ECF No. 1 at 4. Broadly construed, the Complaint asserts claims under the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*; Regulation Z, *see* 12 C.F.R. § 226 *et seq.*; the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*; the Credit Card Accountability and Responsibility and Disclosure Act, Pub. L. No. 111-24, 123 Stat. 1734 (2009); and 12 U.S.C. § 1831. ECF No. 1 at 4. Chase answered the Complaint and filed counterclaims for breach of contract and account stated. ECF No. 12. The parties cross-moved for summary judgment. *See* ECF Nos. 75, 83. Before the Court is the Report and Recommendation of Magistrate Judge Sarah L. Cave recommending that Plaintiff’s motion for summary judgment be denied and that Defendant’s motion for summary judgment be granted. ECF No. 95. The Court has examined the Report and Recommendation and notes that no objections have been filed. For the reasons set forth below, the Court finds no clear error in the Report and Recommendation and adopts Judge Cave’s recommendation.

BACKGROUND

Plaintiff filed his Complaint on October 14, 2021.¹ The Court granted Plaintiff's application to proceed *in forma pauperis*, ECF No. 3, and issued an Order of Service, ECF No. 5. Defendant was served on November 10, 2021. The Court referred the case to Judge Cave for general pretrial purposes and for a Report and Recommendation on all dispositive motions. ECF Nos. 8, 51.

On December 21, 2021, Defendant filed its answer and counterclaims. ECF No. 12. Nearly a year later, on November 4, 2022, fact discovery closed. ECF No. 47. Plaintiff then moved to amend his Complaint, ECF No. 64, and Judge Cave issued a Report and Recommendation denying Plaintiff's motion. ECF No. 68. The Court adopted Judge Cave's Report and Recommendation on July 11, 2024. *See* ECF No. 72.

Defendant moved for summary judgment on its counterclaims on September 6, 2024, ECF No. 75, and Plaintiff cross-moved for summary judgment on September 13, 2024, ECF No. 83. On April 11, 2025, Judge Cave issued a 21-page Report and Recommendation that the Court deny Plaintiff's motion for summary judgment and grant Defendant's motion for summary judgment, pursuant to Rule 56, because "there [wa]s no genuine issue of material fact as to any of Mr. Thomas' claims or Chase's Counterclaims." ECF No. 95 at 19. The Report and Recommendation notified the parties that they had "fourteen (14) days . . . to file written objections." *Id.* at 21. The Report and Recommendation also cautioned that "[f]ailure to object within fourteen (14) days w[ould] result in a waiver of objections and w[ould] preclude appellate review." *Id.* (emphasis in original). No objections have been filed, nor has any request to extend the time to object been made.

¹ This case was originally assigned to the Honorable Laura Taylor Swain. It was reassigned to the Honorable Analisa Torres and then to the Honorable Alison J. Nathan in 2021, then to the Honorable Paul A. Engelmayer in 2022, and to this Court in 2023.

DISCUSSION

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). A district court “must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). With respect to those portions of the report to which no timely objection has been made, however, a district court need only satisfy itself that no clear error on the face of the record exists. *See, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). A magistrate judge’s decision is clearly erroneous only if the district court is “left with the definite and firm conviction that a mistake has been committed.” *Easley v. Cromartie*, 532 U.S. 234, 242 (2001) (quoting *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948)).

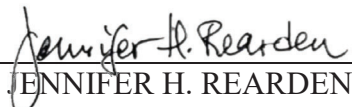
Notwithstanding a direct warning that a failure to file objections would “result in a waiver of objections and w[ould] preclude appellate review,” ECF No. 95 at 21, Plaintiff did not file any objections to the Report and Recommendation. Thus, Plaintiff waived the right to judicial review. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992) (citing *Thomas v. Arn*, 474 U.S. 140, 155 (1985)); *see also Mario v. P & C Food Markets, Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.” (citing *Small v. Sec’y of Health and Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam))). The Court has carefully reviewed the Report and Recommendation in any event and, unguided by objections, finds no clear error. The Report and Recommendation is well reasoned and grounded in fact and law.

Accordingly, the Report and Recommendation is adopted in its entirety. The Court grants Defendant's motion for summary judgment and denies Plaintiff's motion for summary judgment. By **June 25, 2025**, in accordance with Local Civil Rule 77.1, Defendant shall file a proposed judgment.

The Clerk of Court is directed to terminate ECF Nos. 75 and 83 and to mail a copy of this Order to Plaintiff at his address of record.

SO ORDERED.

Dated: June 16, 2025
New York, New York



JENNIFER H. REARDEN
United States District Judge